

REMARKS

Claims 3 and 30-45 remain before the Examiner. Claims 1, 2 and 4-29 have been canceled without prejudice for filing in a subsequent continuing application that claims benefit of priority from the instant application. Claim 3 has been written in independent form in a manner consistent with its previous dependency from claim 1. Specifically, claim 3 is still directed to polyamine analogues or derivatives comprising an amide linkage in relation to the N¹ monosubstitution. Claim 3 has been further defined to comprise a spermine structure, as supported at least on page 27 of the specification, as the base polyamine upon which N¹ monosubstitution by amide linkage occurs. This is offered in response to the Examiner's request for the election of a "*single disclosed species*" (italics in the original), which has been interpreted as a single searchable structure by Applicants.

Support for the R groups recited in amended claim 3 and claims 30-33 is provided at least on pages 12 and Figure 19 of the application. Support for claims 34-36, 42 and 43 is provided at least by claims 19-21 as originally filed and page 53. Support for claims 37-41, 44 and 45 is provided at least by claims 23-28 as originally filed and pages 53-54. No new matter has been introduced and entry of the amendment is respectfully requested.

Attached hereto is a marked-up version of the changes made to claim 3 by the instant amendment. The attached page is captioned "**Version with markings to show changes made.**"

Applicant has carefully reviewed the Restriction Requirement mailed March 28, 2001 and request reconsideration in light of the above amendments and following discussion.

The Examiner has stated that original claims 1-29 are “generic to a plurality of disclosed patentably distinct species comprising, for example sulfonamides or carboxamides.” As such, the Examiner required the election of “a single disclosed species”.

Applicants have interpreted the Examiner’s position as that of requiring that a polyamine analogue or derivative comprising a single linkage group be elected. This is supported by the applicable standard under Restriction practice as set forth in the MPEP. The Examiner’s attention is respectfully directed to 37 CFR 1.141(a) as well as MPEP 806 and 809.02 to 809.02(e), which set for that *even if the Examiner is able to demonstrate independence or distinction between species, “a reasonable number of species may be claimed where there is an allowed (novel and unobvious) claim generic thereto.”* Since the Examiner has noted the presence of at least one generic claim (making paragraph 8.01 rather than 8.02 of MPEP 809.02(a) applicable), Applicants believe that there is no requirement for the election of a single compound because limiting the claims to a single species of compound would negate the meaning of 37 CFR 1.141(a) which expressly provides for “more than one species” to be simultaneously claimed. Any prohibition against more than one species would be expressly contrary to the meaning of 37 CFR 1.141(a).

Based on the above, Applicants hereby elect with traverse the species corresponding to originally filed claim 3, wherein an amide linkage is expressly required. Additionally, Applicants have introduced spermine as the specific polyamine “backbone” structure (or formula) to which all compounds as currently claimed relate. Applicants respectfully submit this is fully responsive to the Restriction Requirement.

The presence of claims 34-45 is not believed to introduce any additional Restriction issues because corresponding claims 17-29 as originally filed did not raise such issues as indicated by the Restriction Requirement mailed March 28, 2001.

Applicant requests examination of the elected subject matter on the merits.

Conclusion

In light of the above discussion and new claims, Applicants respectfully request that claims 3 and 30-45 be examined. In the event the Examiner finds that a telephonic discussion may be helpful to address any residual Restriction issues, he is respectfully invited to contact the undersigned.

In the event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** with reference to 275102001021. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

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Version with markings to show changes made.

In the Claims:

Kindly amend the claims as follows:

Please cancel claims 1, 2 and 4-29.

Please replace claim 3 with the following

3. (amended) A polyamine analogue or derivative [~~according to claim 1 wherein~~
~~said N⁺ monosubstitution comprises an amide linkage~~] represented by the formula



wherein R is a head group selected from the group consisting of a straight or branched
C₁₋₁₀ aliphatic, alicyclic, single or multi-ring aromatic, single or multi-ring aryl substituted
aliphatic, aliphatic-substituted single or multi-ring aromatic, a single or multi-ring heterocyclic, a
single or multi-ring heterocyclic-substituted aliphatic and an aliphatic-substituted aromatic or

wherein R-CO- is a D or L amino acid or ornithine,

wherein said analogue or derivative is not compound 1022, 1085, 1111, 1163 1166, 1202,
or 1260.